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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re Itzel R., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

ITZEL R.,

Defendant and Appellant.

D074073

(Super. Ct. No. J240709)

APPEAL from a judgment of the Superior Court of San Diego County,

Robert J. Trentacosta, Judge. Affirmed; remanded with directions.

Britton Donaldson, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Eric A Swenson and Felicity Senoski, Deputy Attorneys General, for Plaintiff and Respondent.

Following a contested adjudication hearing, the juvenile court made true findings on a petition filed under Welfare and Institutions Code section 602 against Itzel R. (Minor) based on a misdemeanor violation of Penal Code section 148, subdivision (a) (resisting a police officer). She was placed on formal probation for one year with numerous terms and conditions, including that she report "all law enforcement contacts to the Probation Officer within three calendar days." On this appeal, Minor requests that we independently review the sealed record of her *Pitchess* motion¹ to determine whether the juvenile court erred in finding no discoverable material. She also relies on *People v. Relkin* (2018) 6 Cal.App.5th 1188 (*Relkin*) to argue that the law enforcement contact condition is unconstitutionally vague and overbroad.

As to the *Pitchess* review, which the People concede is appropriate, we find no error. But we agree with Minor that based on *Relkin*, the challenged probation condition is vague and overbroad in failing to distinguish between substantive law enforcement contacts (which require disclosure) and casual or incidental contacts (which do not). We will remand the matter to the juvenile court with directions either to clarify the condition or strike it.

FACTUAL AND PROCEDURAL BACKGROUND

A detailed recitation of the facts is unnecessary to understand the issues raised by this appeal. Suffice it to say that Minor was involved in a physical struggle with a police

¹ See *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 (*Pitchess*).

officer outside her high school. Other officers were called to assist. Both Minor and the original officer sustained minor injuries.

Prior to the adjudication hearing, Minor filed a *Pitchess* motion. After conducting an in camera review of the officer's personnel records, the court concluded there was no material relevant to Minor's claim of excessive force.

At the conclusion of the adjudication hearing, the court found that Minor had unlawfully resisted a police officer in violation of Penal Code section 148, subdivision (a), a misdemeanor. Two weeks later at the disposition hearing, the court placed Minor on probation for one year on various terms and conditions, including the requirement that she "report all law enforcement contacts to the Probation Officer within three calendar days."

DISCUSSION

1. *The Pitchess Motion*

Consistent with *People v. Mooc* (2001) 26 Cal.4th 1216, 1232, Minor requests that we independently review the sealed transcript of the *Pitchess* proceeding in the juvenile court to ensure that any and all relevant documents were disclosed. The People do not oppose his request. We have conducted such a review and conclude that the court did not err in concluding there was no discoverable material.

2. *The "Report All Law Enforcement Contacts" Probation Condition*

Relying on *Relkin, supra*, 6 Cal.App.5th 1188, Minor challenges as vague and overbroad on its face the requirement that she report all law enforcement contacts to her

probation officer. *Relkin* dealt with a similar challenge to a virtually identical condition.² The Third Appellate District concluded the condition "is vague and overbroad and does indeed leave one to guess what sorts of events and interactions qualify as reportable." (*Id.* at p. 1197.) In the *Relkin* court's view, the condition fails to delineate between innocuous interactions not worthy of being reported—if the defendant "says 'hello' to a police officer or attends an event at which police officers are present"—and more serious contacts. (*Ibid.*)

We agree with the court in *Relkin* that the condition must be modified to give Minor adequate notice as to which types of contacts with law enforcement she is required, under threat of probation revocation, to report. Accordingly, we will remand the matter to the juvenile court to either clarify the scope of the condition or to strike it.

² The condition in *Relkin* required the defendant to report "any contacts with . . . any peace officer." (6 Cal.App.5th at pp. 1196–1197.)

DISPOSITION

The case is remanded with directions to modify or strike the condition of probation requiring Minor to report law enforcement contacts to her probation officer, consistent with the views expressed in this opinion. In all other respects the adjudication and disposition orders are affirmed.

DATO, J.

WE CONCUR:

McCONNELL, P. J.

IRION, J.